

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

BRUCE H. YUILLE,

Plaintiff,

v.

AMERICAN HOME MORTGAGE
SERVICING, INC., et al.,

Defendants.

CIVIL ACTION NO. 09-11203

DISTRICT JUDGE BERNARD A. FRIEDMAN

MAGISTRATE JUDGE DONALD A. SCHEER

**ORDER DENYING DEFENDANTS' MOTION
TO ESTABLISH ESCROW ACCOUNT**

This matter is before the magistrate judge on Defendants' Motion to Establish Escrow Account. The Motion was filed October 30, 2009. Plaintiff filed his Response on November 18, 2009. Both parties have filed supplemental briefing. The Motion was brought on for hearing on May 11, 2010, and taken under advisement.

Having considered Defendants' Motion, together with Plaintiff's Response, and the arguments and supplemental briefings, I find that the Motion should be denied. Defendants have not provided persuasive authority for the proposition that Plaintiff may be compelled to make payments on a contested debt in advance of an adverse judgment and in the absence of a stipulation. In Rodriguez v. Berrybrook Farms, 1990 WL 10520985 (E.D. Mich.), for example, the escrow was established subsequent to the entry of judgment. In Paul v. U.S. Mutual Financial, 150 Mich.App. 773 (1986), a summary judgment case, the debtor requested the escrow of its own payments. The other authority submitted by Defendant dealt with voluntary escrow payments, or with circumstances dissimilar to those presented in the case at bar. Defendants also submitted copies of court orders directing

escrow payments, but those orders contain no reasoned analysis which might be applied to the facts of the instant case.

A Report and Recommendation has been filed with regard to the parties cross Motions for Summary Judgment. Should Defendants secure a judgment against Plaintiff, and Plaintiff elects to appeal from that judgment, Defendants may seek the imposition of an appropriate appeal bond to protect them from financial loss.

IT IS THEREFORE ORDERED that Defendants' Motion to Establish Escrow Account is DENIED.

s/Donald A. Scheer
DONALD A. SCHEER
UNITED STATES MAGISTRATE JUDGE

DATED: September 22, 2010

CERTIFICATE OF SERVICE

I hereby certify on September 22, 2010 that I electronically filed the foregoing paper with the Clerk of the Court sending notification of such filing to all counsel registered electronically. I hereby certify that a copy of this paper was mailed to the following non-registered ECF participants on September 22, 2010: **Bruce Yuille.**

s/Michael E. Lang
Deputy Clerk to
Magistrate Judge Donald A. Scheer
(313) 234-5217